

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

-----X
In re: :
 : In Chapter 13
 ROSALIND C. McCREA :
 : Bankruptcy No. 14-13991 (JKF)
 Debtor. :
-----X

**THE CITY OF PHILADELPHIA’S OBJECTION
TO THE PROPOSED FIRST AMENDED CHAPTER 13 PLAN**

TO THE HONORABLE JEAN K. FITZSIMON:

AND NOW, comes the City of Philadelphia, (the “City”), a secured and priority creditor in the above-captioned case, by and through its Counsel, Megan N. Harper, Deputy City Solicitor, pursuant to Bankruptcy Code §§ 506(b), 1325(a)(5), and L.B.R. 3015-1(c), to object to the proposed First Amended Chapter 13 plan (the “Plan”), of Rosalind C. McCrea, (the “Debtor”). The City avers the following in support thereof:

1. On or about May 18, 2014, the Debtor filed a voluntary petition (the “Petition”) for Chapter 13 bankruptcy with this Court.
2. A list of all real property owned by the Debtor was filed on June 16, 2014, which included the properties addressed 1418 W. Allegheney Avenue, 1524 S. Marshall Street and 516 Cross Street, Philadelphia, Pennsylvania (the “Subject Properties”). A copy of the Debtor’s Schedule A is attached hereto as **Exhibit A**.
3. The Subject Properties are alleged by the Debtor to have a current combined value of Three Hundred Eighteen Thousand (\$318,000.00). *See Exhibit A*.
4. On the following dates, the City filed the following claims:
 - September 22, 2014 - \$387.00 for water repairs;

- October 20, 2014 - \$7,902.00 for water/sewer services;
- November 14, 2014 - \$12,507.69 for real estate taxes, judgments, liens and business taxes.

Copies of the proofs of claim (collectively referred to as the “Claims”) filed by the City are attached hereto as **Exhibit B**.

5. As neither the Debtor nor another party in interest has objected to the Claims they are deemed allowed. See 11 U.S.C. § 502(a).

6. On April 1, 2015, the Debtor filed the Plan, which provides payment of the Claims in full plus post-petition interest at a rate of 5%. A copy of the Plan is attached hereto as **Exhibit C**.

7. The City is entitled to post-petition interest on the certain secured portions of the Claims until the last payment under the Plan. Specifically, the City is entitled to post-petition interest with respect to real estate taxes and judgments. See 11 U.S.C. § 506(b); See also *U.S. v. Ron Pair Enters.*, 489 U.S. 235 (1989), *In re Nixon*, 404 Fed. Appx. 575, 578 (3d Cir. 2010), and *In re Bernbaum*, 404 B.R. 39, 42 (Bankr. D. Mass. 2009).

8. The post-petition interest applicable to the real estate taxes is the nine percent (9%) rate of interest on real estate taxes assessed on the Subject Properties. See 11 U.S.C. § 511(a), Phil. Code § 19-1303, and *In re Bernbaum*, 404 B.R. 39, 43 (Bankr. D. Mass. 2009).

9. The post-petition interest applicable to the judgments is the rate of interest on judgments entered against the Debtor which is six percent (6%). See *U.S. v. Ron Pair Enters.*, 489 U.S. 235 (1989), 42 Pa.C.S. §8101, and 41 P.S. § 202.

10. The Plan should not be confirmed as the City, as a secured creditor, has not accepted the plan. See 11 U.S.C. 1325(a)(5)(A).

11. The Plan should not be confirmed as it fails to provide for the distribution of property equal to the value of the City's allowed claims. See 11 U.S.C. § 1325(a)(5)(B)(ii).

12. The Plan should not be confirmed as it fails to provide for the appropriate post-petition interest on the real estate taxes and judgments and thus does not ensure that distributions under the plan are not less than the allowed amount of the Secured Claims. See 11 U.S.C. §§ 506(b), 1325(a)(5)(B)(ii), and *In re Bernbaum*, 404 B.R. 39, 42 (Bankr. D. Mass. 2009).

WHEREFORE, the City respectfully requests that this Court DENY confirmation of the Plan.

Respectfully submitted,

THE CITY OF PHILADELPHIA

Dated: June 10, 2015

By: /s/ Megan N. Harper
MEGAN N. HARPER
Deputy City Solicitor
PA Attorney I.D. 81669
Attorney for the City of Philadelphia
City of Philadelphia Law Department
Municipal Services Building
1401 JFK Boulevard, 5th Floor
Philadelphia, PA 19102-1595
215-686-0503 (phone)
Email: Megan.Harper@phila.gov